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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,525	09/12/2000	Alan A. Siegel	P-5	6224

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT PAPER NUMBER

3611

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/659,525

Applicant(s)

SIEGEL ET AL

Examiner

Cassandra Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,6-9,11,14-16,18 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6-11, 14-16, 18, 21-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 6, 9, 11, 14, 16, 18, 21, and 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montague, U. S. Patent 2001/0042009 in view Swan, U. S. Patent 5,690,220.

With respect to claims 1, 9, 16, and 25-27, Montague teaches computer readable medium product label apparatus comprising an optical memory/CD 60 encoded with selected information about a product 418 which the hangtag is attached. (See paragraph 0011 and figure 11)

Montague also teaches a protective enclosure 110 dimensioned to receive the optical memory/CD 60 and tether attachment means 75 for selectively attaching the protective enclosure 110 to a product. (See figure 5). In addition, Montague teaches an access opening 118 along one side of the enclosure.

Montague does not teach the access opening having a means initially obstructing the optical memory from being removed from the protective enclosure and for subsequently eliminating any obstruction to allow for free movement of the optical memory permanently from and into the protective enclosure after the means is altered

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by a user to allow the optical memory to be initially withdrawn from the protective enclosure.

Swan teaches an enclosure or pocket comprising a first transparent pocket piece 14 having edges 14a and 14b and a second pocket piece 16 having edges 16a and 16b, wherein the first pocket piece is jointed to the second pocket piece along edges 14a, 14b, 16a, and 16b. Swan also teaches a strip 18 partially scored or cut. The strip can be readily removed from the remainder of the second pocket piece to form a slot 24 sized so that the CD can be readily removed from pocket. (See column 3, lines 10-28). Swan teaches that the strip can function as an anti-tampering device.

It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the protective pocket of the computer readable CD label taught by Montague with a protective enclosure with an remove access opening strip as taught by Swan to provide a means to protect the CD until time of use and to provide a means to discourage shoplifting or other tampering with the compact disk. (See column 4, line16-21).

With respect to claim 3, 11, 18, 23, and 24, Montague teaches tether attachment means comprising an elongate cord 75 adapted for positioning between the product and the pouch. (See paragraphs 0052 and 0057).

With respect to claim 6, 14, 21, Montague teaches the optical memory is an optical disk such as a CD ROM.

With respect to claim 7, 15, and 22, Montague teaches the optical memory/CD ROM 60 can be of any suitable arbitrary, but symmetrical shape (See paragraph 0052 and –50). Figures 4 and 5 shows non-circular disk.

With respect to claims 28-30, Montague teaches the computer readable medium product label may contain product information regarding the exact product on which the tag was shipped from a manufacturers. (See paragraph 0011).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 9, and 16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Combs, U. S. Patent 6,360,889 is cited to show a sealed CD-ROM holder attached to a book. (See figures 5-8).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 703-308-2223. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
January 24, 2005